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APR 04 2007

TECHNOLOGY CENTER 3600

In re Application of : DECISION ON THE PETITION
Mitchell R. Swartz : UNDER 37 CFR 1.181
Application No. 09/750,765 :
Filed: December 28, 2000 :
For: METHOD AND APPARATUS TO CONTROL :
ISOTOPIC FUEL LOADED WITHIN A :
MATERIAL :

This is a decision on applicant's petitions filed on May 30, 2006 under 37 CFR 1.181, to the petition decision dated May 22, 2006 regarding the non-compliant Appeal Brief.

The petition is **DISMISSED as MOOT.**

DISCUSSION

It is noted that the application is currently in abandoned status. Applicant petitioned the holding of abandonment in the petition dated June 15, 2006 which is currently with the Office of Petitions. It appears that the issues addressed in this petition are included in the above noted petition and will be addressed along with the issue of abandonment. No decision has been rendered by the Office of Petitions as of the date of this decision.

Accordingly, the May 30, 2006 petition is moot as the application is in abandoned status. Petitions do not extend time periods and are not considered to be proper responses.

ADDITIONAL DISCUSSION

It is noted that applicant has filed numerous petitions regarding this application and other co-pending applications the petitioner is advised that the Office has, pursuant to 35 U.S.C. § 1, established a federal regulation (37 CFR 10.18) that governs, among other things, the conduct of parties appearing before the Office whether in person, or in writing. Federal regulations have the force of law. For petitioner's benefit, the statute and regulation read as follows, in pertinent part:

35 U.S.C. 1 Establishment.

(a) ESTABLISHMENT.— The United States Patent and Trademark Office is established as an agency of the United States, within the Department of Commerce.

...

(b) SPECIFIC POWERS.— The Office—

...

- (2) may establish regulations, not inconsistent with law, which—
- (A) shall govern the conduct of proceedings in the Office;
 - (B) shall be made in accordance with section 553 of title 5;
 - (C) **shall facilitate and expedite the processing of patent applications**, particularly those which can be filed, stored, processed, searched, and retrieved electronically, subject to the provisions of section 122 relating to the confidential status of applications;
 - (D) **may govern the recognition and conduct of agents, attorneys, or other persons representing applicants or other parties before the Office**, and may require them, before being recognized as representatives of applicants or other persons, to show that they are of good moral character and reputation and are possessed of the necessary qualifications to render to applicants or other persons valuable service, advice, and assistance in the presentation or prosecution of their applications or other business before the Office; ... (Emphasis added.)

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.

- (a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of § 1.4(d), § 1.4(e), or § 2.193(c)(1) of this chapter.
- (b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, **whether a practitioner or non-practitioner**, is certifying that—
 - (1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and
 - (2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that—
 - (i) **The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;**
 - (ii) **The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;**
 - (iii) **The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and**
 - (iv) **The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.**
 - (c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. **Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —**
 - (1) Holding certain facts to have been established;

- (2) Returning papers;
 - (3) Precluding a party from filing a paper, or presenting or contesting an issue;
 - (4) Imposing a monetary sanction;
 - (5) Requiring a terminal disclaimer for the period of the delay; or
 - (6) Terminating the proceedings in the Patent and Trademark Office.
- (d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15). (Emphasis added.)

Applicant, at the very least may be viewed as failing to comply with 37 CFR 10.18(b)(2)(i). Applicant's continued disregard for office policy and the office's attempts to provide applicant with the necessary advice to ensure that he is compliant with Patent procedures and policies, are considered to be unnecessary and cause needless delays in the prosecution of the application before the Office.

SUMMARY: The petition is **DISMISSED as MOOT.**

Any questions or comments with respect to this decision should be forwarded to Office of Petitions in writing..



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jwk/snm: 4/2/07

